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## REMARKS

In response to the Decision on Appeal dated **March 30, 2012** (hereinafter "Decision on Appeal") and further to a Final Office Action mailed May 29, 2009 (hereinafter "Final Action"), claims 1-5, 7-14, 16-22, 26-33, 35-41, 44-50, 52-61, and 66-73 have been amended pursuant to 37 C.F.R. § 41.50(b)(1). Claims 6, 15, 23-25, 34, 42, 43, 51, and 62-65 are cancelled without prejudice or disclaimer. Claims 76-87 have been added. Claims 74-75 have been withdrawn. Support for the instant amendments is provided throughout the as-filed Specification. Thus, no new matter has been added. In view of the foregoing amendments and following comments, allowance of all the claims pending in the application is respectfully requested.

### REJECTION UNDER 35 U.S.C. § 101

Claims 66-69 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. [Final Action, pg. 2]. In its Decision on Appeal, the Board of Patent Appeals and Interferences ("the Board") does not appear to have addressed the issue of whether claims 66-69 recite statutory subject matter as alleged in the Final Action. Applicants disagree with the propriety of the rejection for at least the reason that the Examiner is improperly reading limitations into 35 U.S.C. § 101 on the subject matter that may be patented. Nonetheless, solely in an effort to expedite prosecution, and in no way acquiescing in the propriety of the alleged rejection, the claims have been amended, rendering the rejection moot. Accordingly, the withdrawal of the rejection under 35 U.S.C. § 101 is earnestly sought.

### REJECTION UNDER 35 U.S.C. § 103

An issue on appeal was whether claims 1-5, 7-14, 16-22, 26-41, 44-50, 52-63, and 65-73 were properly rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,237,145 in view of alleged Official Notice as evidenced by U.S. Patent No. 7,013,286 to Aggarwal et al., U.S. Patent No. 6,450,407 to Freeman et al., and U.S. Patent No. 6,601,040 to Kolls.

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In its Decision, the Board set forth a new ground of the rejection as to claims 1-5, 7-14, 16-22, 26-41, 44-50, 52-54, 61-63, and 65-73. The Board affirmed the rejection of claims 55-60. [Decision on Appeal, pg. 8]. Applicants disagree with the new ground of rejection and the alleged affirmance for at least the reason that the references relied upon by the Board, either alone or in combination, fail to disclose, teach or suggest all of the features of the claimed invention. Nonetheless, solely in an effort to expedite prosecution, and in no way acquiescing in the propriety of the new ground of rejection or alleged affirmance, Applicants have amended the claims pursuant to 37 C.F.R. § 41.50(b)(1). Applicants note that claims 34, 62, 63, and 65 are currently cancelled, rendering the rejection of these claims moot.

For example, independent claim 1 has been amended to recite “a method for distributing a promotion and facilitating mobile payment associated with the promotion” that includes, *inter alia*:

- causing data relating to the promotion to be transmitted to a mobile electronic device;
- receiving purchase information of a purchase transaction being paid for with the mobile electronic device;
- communicating a prompt to accept the purchase transaction to the mobile electronic device, wherein the prompt comprises at least a portion of the purchase information;
- receiving an acceptance of the purchase transaction from the mobile electronic device; and
- facilitating payment of the purchase transaction based on the acceptance and the promotion.

Independent claims 22, 26, 30, 37, 41, 49, 66, and 70 have been amended to include similar, although not identical, recitations. None of the references relied upon by the Board, either alone or in combination, teach or suggest at least the foregoing features recited by the claims. As such, an indication of allowability of these claims is earnestly sought.

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Independent claim 13 has been amended to recite a “method of receiving and redeeming promotions and facilitating mobile payments via a mobile electronic device” that includes, *inter alia*:

- receiving, by the mobile electronic device, data relating to a promotion from a server;

- accessing, by the mobile electronic device, the data relating to the promotion;

- accepting, by the mobile electronic device, the promotion by replying to the server;

- communicating, by the mobile electronic device, with the server to pay for a purchase transaction associated with the promotion;

- receiving, by the mobile electronic device, a prompt to accept the purchase transaction, wherein the prompt comprises purchase transaction information associated with the purchase transaction; and

- communicating, by the mobile electronic, an acceptance of the purchase transaction based on the prompt, wherein the acceptance causes payment of the payment transaction

Independent claim 55 has been amended to include similar, although not identical recitations. None of the references relied upon by the Board, either alone or in combination, teach or suggest at least the foregoing features recited by the claims. As such, an indication of allowability of these claims is earnestly sought.

Independent claim 61 has been amended to recite a “method for redeeming promotions and facilitating mobile payment associated with the promotions” that includes, *inter alia*:

- identifying a redeemable promotion;

- associating a particular transaction at a point of sale (POS) with the redeemable promotion;

- communicating the associated transaction to a wireless mobile electronic device associated with a particular consumer;

- receiving from the wireless mobile electronic device associated with said particular consumer an acceptance of the associated transaction and the promotion; and

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facilitating payment for the associated transaction  
based on a communication from the wireless mobile electronic  
device.

None of the references relied upon by the Board, either alone or in combination,  
teach or suggest at least the foregoing features recited by the claims. As such, an indication  
of allowability of these claims is earnestly sought.

The remaining dependent claims pending prior to the Appeal are allowable over the  
references relied upon by the Board for their dependency on the allowable independent  
claims and for the further features that they recite.

### CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a  
full and complete response has been made to the outstanding Office Action and, as such,  
the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite  
prosecution of this application, the Examiner is invited to telephone the undersigned at the  
number provided.

Date: May 30, 2012

Respectfully submitted,

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